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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,110	08/29/2003	Constantin Bucur	O2MICRO 03.18	9841
32047	7590	06/09/2006	EXAMINER	
GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC 55 SOUTH COMMERCIAL STREET MANCHESTER, NH 03101				TIBBITS, PIA FLORENCE
		ART UNIT		PAPER NUMBER
		2838		

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/652,110	BUCUR ET AL.
	Examiner Pia F. Tibbits	Art Unit 2838

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 April 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3 and 7-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3 and 7-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/16/06.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

This Office action is in answer to the amendment filed 4/25/2006. Claims 1-3, 7-38 are pending, of which claims 14-38 are withdrawn, and claims 1, 10-13 are amended.

Specification

1. This application is a continuation in part of 10/364228, and a continuation in part of 09/960453.

Filing Date of U.S. Parent Application can only be used as the 35 U.S.C. 102(e) date if it supports the claims of the issued child. See **MPEP 2163.03**. In order to carry back the 35 U.S.C. 102(e) critical date of the U.S. patent reference to the filing date of a parent application, the U.S. patent reference must have a right of priority to the earlier date under 35 U.S.C. 120 or 365(c) and the parent application must support the invention claimed as required by 35 U.S.C. 112, first paragraph. "For if a patent could not theoretically have issued the day the application was filed, it is not entitled to be used against another as secret prior art" under 35 U.S.C. 102(e). *In re Wertheim*, 646 F.2d 527, 537, 209 USPQ 554, 564 (CCPA 1981). In other words, there is no support in either parent case for the claimed recitation "wherein when said first and second switches are closed said controllable DC power source and said rechargeable battery are in a **parallel power supply mode** to permit both said controllable DC power source and said rechargeable battery to supply power to said system load". Therefore the priority date for the "**in part**" portion of the instant application is the filing date of the instant application, 8/29/2003.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Potega** [6459175].

As to claim 1, Potega discloses in figures 1-14 a power supply topology comprising: a first path configured to be coupled to a controllable DC power source 264; a second path configured to be coupled to a battery 208; a third path configured to be coupled to a system load 206, wherein said first, second, and third paths are coupled to a common node 184. Potega does not disclose a first switch coupled to said first path to allow selective coupling of said controllable DC power source to said system load via said common node; and a second switch coupled to said second path to allow selective coupling of said battery to said common node, wherein when said first and second switches are closed said controllable DC power source and said rechargeable battery are in a parallel power supply mode to permit both said controllable DC power source and said rechargeable battery to supply power to said system load. However, Potega discloses multi-selector switch 184, where the power lines from both the controllable DC power source 264 and the battery device 208 are operating in parallel [see column 34, lines 29-32, 62-65]. Therefore the multi-selector switch 184 performs the same function as the first and the second switches of the instant application. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make separable the first and the second switches in order to accommodate application specifics, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961). See **MPEP 2144.04**.

As to claims 2, 3, see remarks and reference above.

As to claim 7, Potega discloses wherein said controllable DC power source comprises a DC/DC converter [see fig.6; fig.10; column 1, line 18; column 6, line 57; column 41, lines 3-5; column 48, lines 11-14; column 53, lines 44-46].

As to claim 8, see remarks and reference above.

As to claim 9, the first switch is coupled between said fixed DC power source and said DC to DC converter: with regard to the particular location of the first switch, i.e., between said fixed DC power source and said DC to DC converter, absent any criticality, is only considered to be an obvious modification as it has been held by the courts that there would be no invention in shifting the location of

a structure of a device to another location if the operation of the device would not thereby be modified.

In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) MPEP 2144.04

As to claims 10-13, see remarks and reference above.

Response to Arguments

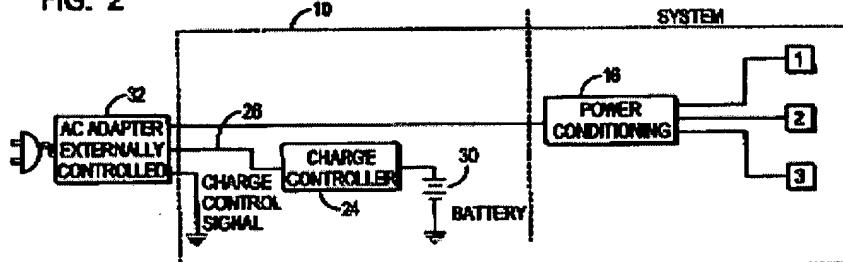
4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection. Applicant amended independent claim 1 to include " wherein when said first and second switches are closed said controllable DC power source and said rechargeable battery are in a parallel power supply mode to permit both said controllable DC power source and said rechargeable battery to supply power to said system load", which is new issue.

5. Applicant's arguments that the claimed limitations have antecedence in the parent cases have been fully considered but they are not persuasive.

a) Parent case 09960453 discloses powered management for battery-powered appliances:

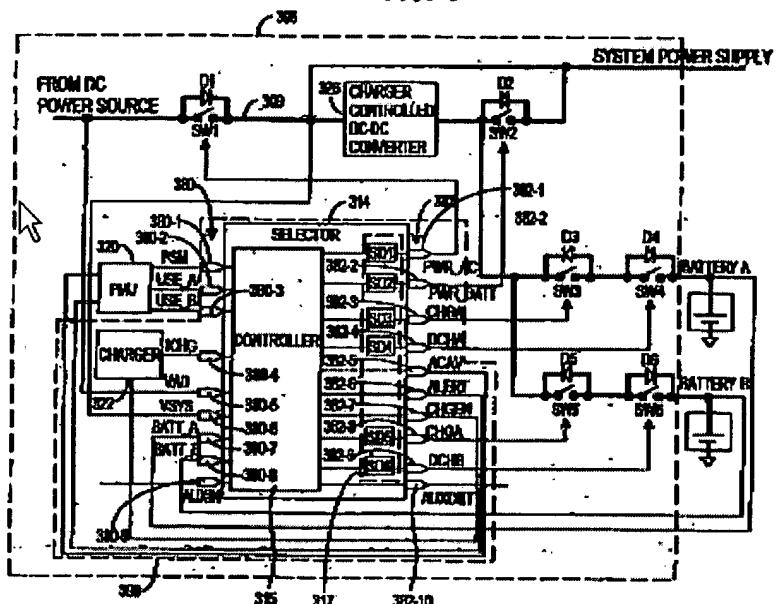


FIG. 2



b) Parent case 10364228 discloses a selector circuit for power management in multiple battery systems:

FIG. 3



Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related apparatus: **GB-2303979**, prior art disclosed by applicant, discloses a power supply topology supplying the DC power to a load 3 through

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a DC/DC converter, wherein the DC backup power supply system is connected to the information apparatus so as to supply the DC power to the load 3 through the DC/DC converter generating DC current of various voltages needed for operating the UPS 1, and a load 3 [see abstract; fig.2; page 16].

Williams [5536977], prior art disclosed by applicant, discloses in figures 1-11D a power supply topology comprising: a first path configured to be coupled to a controllable DC power source; a second path configured to be coupled to a battery B1; a third path configured to be coupled to a system load L, wherein said first, second, and third paths are coupled to a common node B; a first switch S3 coupled to said first path to allow selective coupling of said controllable DC power source C3 to said system load L via said common node B; and a second switch S1 coupled to said second path to allow selective coupling of said battery B1 to said common node B.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pia Tibbits whose telephone number is 571-272-2086. If unavailable, contact the Supervisory Patent Examiner Karl Easthom whose telephone number is 571-272-1989. The Technology Center Fax number is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PFT

May 31, 2006

Pia Tibbits

Primary Patent Examiner